



**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

(petitioner)

DECISION

---

MRA-40/48445

**PRELIMINARY RECITALS**

Pursuant to a petition filed March 13, 2001, under Wis. Stats. §49.45(5) and Wis. Adm. Code §HA 3.03(1), to review a decision by the Milwaukee County Dept. of Human Services in regard to Medical Assistance (MA), a hearing was held on April 30, 2001, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's spouse is eligible for an increase in her Community Spouse Income Allocation (CSIA).

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

(petitioner)

State Agency:

Wisconsin Department of Health and Family Services  
Division of Health Care Financing  
1 West Wilson Street, Room 250  
P.O. Box 309  
Madison, WI 53707-0309

By: Madeleine Lass, ESS  
Milwaukee County Dept Of Human Services  
1220 W. Vliet St, 3rd Floor  
Milwaukee, WI 53205

Administrative Law Judge:

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The Petitioner (SSN 707-14-7477, CARES #1110999810) is a resident of Milwaukee County. He resides at Alexian Village in the nursing home portion of that facility.
2. The Petitioner's spouse resides in the community at Alexian Village, in the community based residential facility (CBRF) portion of that facility.
3. The Petitioner's monthly income is approximately \$ 5300.00 per month. His community spouse has gross income of \$ 386.00.

4. The agency completed a spousal impoverishment calculation to determine the amount of income to be available to the community spouse and concluded the community spouse income allocation (CSIA) should be \$2,175.
5. The Petitioner's spouse pays monthly rent to the CBRF in the amount of \$ 3210.00. Her medical expenses average \$ 165.00 month. She has miscellaneous expenses (e.g., insurance, transportation, groceries and Alexian Village community events) averaging \$ 31.50 month. Clothing expenses have been about \$ 50.00 per month. Alexian Village charges \$ 13.00 per month for use of the laundry. These expenses total \$ 3482.50.

### **DISCUSSION**

The current community spouse income allowance (CSIA) is the *lesser* of \$2,175.00 per month, or \$1,875.00 plus the amount of shelter expenses incurred each month by the community spouse which exceed \$ 562.50, known as the "excess shelter allowance". Wis. Stats. § 49.455(4)(b), MA Handbook, App. 23.0.0. The CSIA is considered to be the amount of monthly income the spouse of an individualized individual requires to continue residing in the community and meeting his or her basic maintenance needs.

The Division of Hearings and Appeals has the authority to increase the CSIA above the minimum where it is insufficient to meet a particular community spouse's basic maintenance needs. Wis. Stats. §49.455(8)(c); Wis. Admin. Code §HFS 103.075(8)(c); MA Handbook, Appendix 23.6.0.A. This increase can occur only if it is established that the community spouse requires income above the level provided by the minimum due to the existence of "exceptional circumstances resulting in financial duress" for the community spouse. Wis. Stats. §49.455(8)(c); Wis. Admin. Code §HFS 103.075(8)(c).

The term "exceptional circumstances resulting in financial duress" is defined as situations which result in the community spouse being unable to provide for his or her own necessary and basic maintenance needs. Wis. Admin. Code §HFS 103.075(8)(c), Wis. Adm. Code; see also, MA Handbook, Appendix 23.6.0.A3 (last paragraph).

Based upon the above, I do not dispute that the community spouse is eligible for an increase in the CSIA above the minimum. The question is the amount of the increase. The Petitioner's daughter submitted an accounting of her mother's expenses over the past year. In reviewing those expenses I am crediting the community spouse with her rental obligation - \$3210.00, her medical expenses - approximately \$ 165.00 month and miscellaneous expenses (e.g., insurance, transportation, groceries and Alexian Village community events) - \$ 31.50 month. Clothing expenses have been about \$ 50.00 per month. Alexian Village charges \$ 13.00 per month for use of the laundry. These expenses total \$ 3482.50. I have not allowed hair stylist expenses. The other expenses do, however, represent reasonable and necessary expenses thus allowing an increase in the community spouse income allowance to \$ 3482.50.

### **CONCLUSIONS OF LAW**

1. That the community spouse requires a CSIA in excess of the minimum of \$2,175.00 in order to meet her monthly financial obligations.
2. That CSIA for the Petitioner's community spouse is established at \$ 3482.50.

**NOW, THEREFORE, it is**

**ORDERED**

That the matter be remanded to the county agency with instructions to increase the community spouse's Community Spouse Income Allocation (CSIA) to \$ 3482.50. This action is to be taken within ten (10) days of the date of this decision.

### **REQUEST FOR A NEW HEARING**

This is a final fair hearing decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a new hearing. You may also ask for a new hearing if you have found new evidence which would change the decision. To ask for a new hearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875.

Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST."

Your request must explain what mistake the examiner made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

Your request for a new hearing must be received no later than twenty (20) days after the date of this decision. Late requests cannot be granted. The process for asking for a new hearing is in § 227.49 of the state statutes. A copy of the statutes can found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed no more than thirty (30) days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

Appeals for benefits concerning Medical Assistance (MA) must be served on Department of Health and Family Services, P.O. Box 7850, Madison, WI, 53707-7850, as respondent.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for Court appeals is in § 227.53 of the statutes.

Given under my hand at the City of  
Milwaukee, Wisconsin, this \_\_\_\_\_  
day of \_\_\_\_\_, 2001.

---

David D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals  
5-30/DDF

cc: Milwaukee County Dept Of Human Services #9361